

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.465 of 2006

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Dated:06.01.2006

Between:

M.Ravinder Reddy, S/o.Narayana Reddy,
R/o.Mangilla Village, Peddamandadi Mandal, Mahaboobnagar

District.

..... PETITIONER

AND

The Mandal Revenue Officer, Peddamandadi Mandal, Mahaboobnagar

District, and another.

.....RESPONDENTS

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WRIT PETITION No.465 of 2006

ORDER:

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The petitioner is a resident of Mangilla Village of Peddamandadi Mandal of Mahabubnagar District. He is the owner of land admeasuring Acs.5.00 comprised in Survey No.904. He dug a bore-well for irrigating his land. The first respondent herein issued a show cause notice, dated 27.06.2005, calling upon the petitioner to show cause as to why his bore-well should not be seized for violation of the provisions of the Andhra Pradesh Water, Land & Trees Act, 2002 (for short 'the Act'). It was alleged in the said show cause notice that the petitioner is sinking the bore-well in Survey No.904 at a distance of 9 metres from the bore-well existing in Survey Nos.902 and 903 belonging to the second respondent. After receiving the show cause notice the petitioner submitted an explanation denying the allegations. But, the first respondent allegedly did not pass orders so far. In the mean while, the first respondent got the bore-well of the petitioner seized on 11.11.2005 by his subordinates depriving with the use of water for irrigation. Aggrieved by the same, the present writ petition is filed.

The learned Counsel for the petitioner relies on Sections 10 and 15 of the Act in support of the contention that the power to seize a bore-well in the event of the same being dug without permission, can be exercised only when such a bore-well is sunk within the prohibited distance from a drinking water source or bore-well intended for drinking water. Secondly, he would urge that without passing any orders, the first respondent could not have seized the bore-well highhandedly.

The learned Assistant Government Pleader submits that if the Mandal Revenue Officer has already passed orders, the petitioner has right of appeal, and therefore, the writ petition cannot be entertained.

The petitioner received a show cause notice dated 27.06.2005 and submitted explanation immediately. It is not clear whether any order is passed by the first respondent. Therefore, if no orders are passed by the first respondent so far, the seizure of the bore-well is illegal. If an order is already passed, the petitioner has a right of appeal.

Therefore, instead of keeping the writ petition pending, this writ petition is disposed of directing the first respondent to pass appropriate orders pursuant to the show cause notice in F.No.B/2/2005, dated 27.06.2005, within a period of one week from the date of receipt of a copy of this order. If such order is not already passed, the seizure of the bore-well of the petitioner on 11.11.2005 is illegal, and the same shall be released forthwith. In case, the first respondent has already passed orders adverse to the petitioner, a copy of the same may be communicated to the petitioner to enable him to file an appeal before the District Collector under Section 33 of the Act read with Rule 27 of the Andhra Pradesh Water, Land and Trees Rules, 2002.

The Writ Petition is accordingly disposed of. No costs.

(V.V.S.RAO, J)

06.01.2006

vs